

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

STACEY AULTMAN and
HEATHER AULTMAN

VERSUS

VIJAY MAGGIO, M.D.,
AMANDA SCHAFER, MS, DABNN,
BIOTRONICS NEURO METRICS A/K/A
THE BIOTRONIC NEURONETWORK and
ST. FRANCIS MEDICAL CENTER

* CASE NO.: 3:16-CV-1133
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* JUDGE ROBERT G. JAMES
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* MAGISTRATE JUDGE JOSEPH
* PEREZ-MONTES
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SUPPLEMENTAL AND AMENDED COMPLAINT OF INTERVENTION

NOW INTO COURT, through undersigned counsel, come Intervenors, O'Reilly Automotive Stores, Inc. and ACE American Insurance Company (hereinafter "Intervenors"), who respectfully supplement and amend the Complaint of Intervention and petition the Court as follows:

I.

Intervenors supplement and amend the Complaint of Intervention to properly name Intervenors in the opening paragraph and amend the opening paragraph to state as follows:

1.

NOW INTO COURT, through undersigned counsel, comes Intervenors listed as follows:

- a. O'Reilly Automotive Stores, Inc. formerly d/b/a O'Reilly Automotive Inc., a corporation, a publicly traded corporation, incorporated and domiciled in Springfield, Missouri with its principal place of business in Springfield, Missouri, authorized to do and doing business in the State of Louisiana, who is plaintiff, Stacey Aultman's employer, and
- b. ACE AMERICAN INSURANCE COMPANY, an insurance company, is a wholly owned subsidiary of INA Holdings Corporation,

incorporated in Delaware, and the insurer is domiciled, with its principal place of business in Philadelphia, Pennsylvania, is authorized to do and doing business in the State of Louisiana, and provided workers' compensation insurance coverage and is the carrier for employer (hereinafter collectively referred to as "Intervenors"), in the above-entitled and numbered action, and who respectfully represent as follows:"

II.

Intervenors seek to supplement and amend Paragraphs 10 and 11, the prayers for relief of the Complaint of Intervention, to state as follows:

10.

Intervenors, O'Reilly Automotive Stores, Inc. and ACE American Insurance Company, seek judgment that the Complaint of Intervention be deemed just and proper and that Intervenors be permitted to become a party to this lawsuit. Intervenors further seek judgment herein in their favor and against Plaintiffs, Stacey and Heather Aultman, and Defendants, Vijay Maggio, M.D., Amanda Schaefer, and Biotronic National, LLC, in the amount of all workers' compensation benefits, which have been paid or which Intervenors may become obligated to pay pursuant to the Louisiana Workers' Compensation Act, the exact amount to be established at trial, to be paid in preference and priority to any amounts recovered by Plaintiffs in the form of settlement or judgment.

11.

FURTHER, Intervenors, O'Reilly Automotive Stores, Inc. and ACE American Insurance Company, pray that they be recognized as entitled to a credit against any future exposure that Intervenors may have under the Louisiana Workers' Compensation Act after judgment is entered in this matter to the full extent of any recovery by Plaintiffs in these proceedings.

III.

Intervenors seek to add Paragraph 12, to the Complaint of Intervention, to state as follows:

"12.

At all times pertinent to, Stacey Aultman, was employed by O'Reilly Automotive Stores, Inc. As a result of the accident, injuries and damages sustained by the plaintiff, Stacey Aultman, Intervenor have paid to and/or on behalf of Stacey Aultman, Workers' Compensation benefits under the Louisiana Workers Compensation Act to include \$610,826.00 to date in medical expenses, as well as other benefits, pay and expenses as required under the Louisiana Workers' Compensation Act and those benefits are continuing to be paid. Intervenor plead that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and the parties to these proceedings are citizens of different states permitting jurisdiction before this court under 28 USC § 1332.

IV.

Intervenor supplement and amend the Complaint of Intervention to add the following prayer for relief:

WHEREFORE, Intervenor, O'Reilly Automotive Stores, Inc. and ACE American Insurance Company, seek judgment that the Complaint of Intervention be deemed just and proper and that Intervenor be permitted to become a party to this lawsuit. Intervenor further seek judgment herein in their favor and against Plaintiffs, Stacey and Heather Aultman, and Defendants, Vijay Maggio, M.D., Amanda Schaefer, and Biotronic National, LLC, in the amount of all workers' compensation benefits, which have been paid or which Intervenor may become obligated to pay pursuant to the Louisiana Workers' Compensation Act, the exact amount to be established at trial, to be paid in preference and priority to any amounts recovered by Plaintiffs in the form of settlement or judgment.

FURTHER, Intervenor, O'Reilly Automotive Stores, Inc. and ACE American Insurance Company, pray that they be recognized as entitled to a credit against any future exposure that Intervenor may have under the Louisiana Workers' Compensation Act after judgment is entered in this matter to the full extent of any recovery by Plaintiffs in these proceedings.

Respectfully submitted;

TAYLOR, WELLONS, POLITZ & DUHE, APLC

s/Scott Cowart

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ACE AMERICAN INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing *Supplemental and Amended Complaint of Intervention* has been electronically filed with the Clerk of Court of the United States District Court for the Western District of Louisiana by using the CM/ECF System, which will send a notice of electronic filing to all counsel of record in this matter via the electronic filing system. I further certify that I mailed the forgoing document and notice of electronic filing by first-class mail to all counsel of record who are not participants in the CM/ECF system on this 15th day of May, 2017.

s/Scott Cowart

TAYLOR, WELLONS, POLITZ & DUHE, APLC